

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

AMAZON.COM, INC.,)
v. Plaintiff,) Case No. 1:15-cv-00682-AJT-IDD
STRAIGHT PATH IP GROUP, INC.,)
Defendant.)

)

JOINT STIPULATION OF DISMISSAL WITHOUT PREJUDICE

Pursuant to Rules 41(a)(1)(A)(ii) and 41(c) of the Federal Rules of Civil Procedure, Amazon.com, Inc. (“Amazon”) LG Electronics, Inc., LG Electronics U.S.A., Inc., and LG Electronics MobileComm U.S.A., Inc. (collectively, “LG”), and VIZIO, Inc. (“VIZIO”) and Straight Path IP Group, Inc. (“Straight Path”), through their counsel of record, hereby stipulate and agree, to the dismissal of all claims and counterclaims in this action without prejudice.

1. On October 14, 2014, Amazon filed a Complaint against Straight Path in the United States District Court for the Northern District of California seeking a declaratory judgment of non-infringement of U.S. Patent Nos. 6,009,469 (the ““469 patent”), 6,108,704 (the ““704 patent”), and 6,131,121 (the ““121 patent”). (Case No. 5:14-cv-04561-EJD, Dkt. 1.)

2. On May 29, 2015, this case was transferred to this Court. (Case No. 5:14-cv-04561-EJD, Dkt. 45.)

3. On August 26, 2016, the Court ordered that Straight Path’s claims against LG Electronics Inc., LG Electronics MobileComm U.S.A., Inc., LG Electronics U.S.A., Inc. (collectively, “LGE”), and VIZIO, Inc. (“VIZIO”) that were pending in Civil Action No. 1:13-cv-0934 (the “934 action”) directed to Amazon Instant Video were severed from the 934 action, to be “re-

solved together with Amazon’s related declaratory judgment claims and any infringement counterclaims Straight Path may assert in [this] action”. (Dkt. No. 75.)

4. On September 15, 2017, Straight Path filed Counterclaims against Amazon alleging that Amazon infringes the ’469 patent, the ’704 patent, and the ’121 patent. (Dkt. 99.)

5. During the pendency of this case, Straight Path filed suit in Northern District of California against Cisco Systems, Inc. and Apple Inc., in *Straight Path IP Group, Inc. v. Cisco Systems, Inc.*, No. 16-cv-03463, and *Straight Path IP Group Inc. v. Apple Inc.*, No. 16-cv-03582. (the “Cisco and Apple cases”).

6. The Asserted Patents in this action are also at issue in the Cisco and Apple cases, alongside two additional patents from Straight Path’s portfolio.

7. On Monday, November 13, 2017, the court in the Cisco and Apple cases granted Cisco and Apple’s motions for summary judgment of noninfringement based upon its application of the Federal Circuit’s construction of “is connected to the computer network” provided in *Straight Path IP Group, Inc. v. Sipnet EU S.R.O.*, 806 F.3d 1356, 1363 (Fed. Cir. 2015). See Order, *Straight Path IP Group, Inc. v. Apple Inc.*, Case No. 16-cv-03582, Dkt. No. 155.

8. Straight Path will be filing a notice of appeal to the Federal Circuit for review of the court’s application of the term “is connected to the computer network.”

9. Accordingly, the parties hereby stipulate that all claims, counterclaims, and defenses asserted against each other in this case which includes Straight Path’s claims against LG and VIZIO in the 934 action directed to Amazon Instant Video that were severed to be included in the 682 action (Dkt. No. 75), shall be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii) and Fed. R. Civ. P. 41(c).

10. The parties further agree that any statute of limitations applicable to Straight Path's infringement claims against Amazon, LG, and VIZIO are hereby tolled as if the case were stayed.

11. The parties further stipulate that they will bear their own attorney's fees, costs, and all other expenses incurred in litigating this case in the event that Straight Path does not refile this case after it has exhausted its appeals in the *Cisco* and *Apple* cases. The parties expressly reserve their right to seek attorneys' fees, costs, and all other expenses incurred in litigating this case in the event that Straight Path refiles this case.

12. Nothing in this Stipulation shall be construed as an admission of liability or wrongdoing of any kind by any of the parties hereto.

ENDORSEMENTS ON FOLLOWING PAGES

SO ORDERED this _____ day of November 2017.

Alexandria, Virginia

Anthony J. Trenga
United States District Judge

STIPULATED AND AGREED TO this 20th day of November, 2017.

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CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of November, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System, which will then send a notification of such filing (NEF) to the all counsel of record:

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